

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Nicholas J. Cremona
Dean D. Hunt

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

PAUL KUNIN,

Defendant.

No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04716 (SMB)

AFFIDAVIT FOR JUDGMENT BY DEFAULT

[illegible]

Farrell A. Hochmuth, being duly sworn, deposes and states:

1. I was admitted pro hac vice into this Court and am a partner with the firm of Baker & Hostetler LLP, attorneys for Irving H. Picard (“Trustee”), Trustee for the consolidated Liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the Estate of Bernard L. Madoff, and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 7055-2(a) of the Local Rules of the Bankruptcy Court for the Southern District of New York, in support of the Trustee's application for entry of a default judgment against Defendant Paul Kunin ("Defendant").

3. This action is an adversary proceeding commenced before the same Court before which the main underlying SIPA proceeding, No. 08-01789 (SMB) (the “SIPA Proceeding”), is pending. The SIPA Proceeding was originally brought in the United States District Court for the Southern District of New York as *Securities and Exchange Commission v. Bernard L. Madoff Investment Securities LLC et al.*, No. 08 CV 10791, and has been referred to this Court. This Court has jurisdiction over this adversary proceeding under 28 U.S.C. § 1334(b) and 15 U.S.C. §§ 78eee(b)(2)(A), (b)(4). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (H), and (O).

4. On February 7, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon Defendant. *See* Dkt. Nos. 4 and 5. An Affidavit of Service evidencing proper and timely service was filed with the Court. Dkt. No. 5. A true and correct copy of the Affidavit of Service is attached hereto as Exhibit 1.

5. The Defendant has not answered the Complaint, and the time for Defendant to answer the Complaint has expired. A true and correct copy of the Certificate of Default obtained pursuant to Local Bankruptcy Rule 7055-1 is attached hereto as Exhibit 2. *See also* Dkt. No. 11.

6. The Complaint in this adversary proceeding asserted claims pursuant to sections 78fff(b), 78FFF-1(a) and 78fff-2(c)(3) of the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, sections 105(a), 544, 548(a), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of \$740,077.00 in connection with certain transfers of property by BLMIS to or for the benefit of Defendant.

7. On September 15, 2016, the Trustee voluntarily dismissed Counts Two through Six of the Complaint against Defendant with prejudice. The dismissal had no effect on or application to the Trustee's claims against Defendant in Count One of the Complaint. Dkt. No. 15.

8. This action seeks judgment for the liquidated amount of \$740,077.00 pursuant to Count One of the Complaint, which is justly due and owing, and no part of which has been paid.


9. Attached hereto as Exhibit 3 is a true and correct copy of the Affidavit of Service reflecting proper service of the Clerk's Entry of Default on Defendant on February 27, 2015. *See also* Dkt No. 13.

10. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

Dated: Houston, Texas January 5, 2017


Farrell A. Hochmuth

Sworn to before me this
5th day of January, 2017


Notary Public, State of Texas

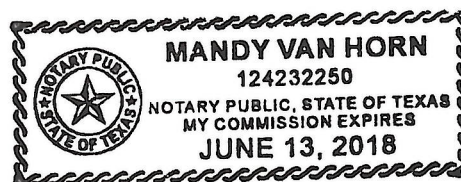


EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
Southern District of New York

SECURITIES INVESTOR PROTECTION
CORPORATION,

Adv. Pro. No. 08-01789 (BRL)

Plaintiff-Applicant,

SIPA LIQUIDATION

v.
BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

(Substantively Consolidated)

Defendant.

In re:

BERNARD L. MADOFF,

Case No. 09-11893 (BRL)

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-04716 (BRL)

Plaintiff,

v.

NTC & Co. LLP, as former custodian of an
Individual Retirement Account for the benefit of
Paul Kunin; and PAUL KUNIN,

Defendants.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

I, Yan Fayerman declare:

1. I am over the age of 18 years and not a party to these chapter 11 cases.
2. I am employed by Donlin, Recano & Company, Inc., 419 Park Avenue South, Suite 1206, New York, NY 10016.
3. On the 7th day of February, 2011, I caused a true and accurate copy of the:
 - (i) "Complaint", along with the relevant exhibits (Docket No. 1); and the
 - (ii) "Notice of Applicability of the Order Approving Case Management Procedures for Avoidance Actions" (Docket No. 2); and the

- (iii) "Summons and Notice of Pretrial Conference in An Adversary Proceeding" (Docket No. 4); and the
- (iv) "Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order" dated November 11, 2010; and the
- (v) "Avoidance Action Executive Summary Letter dated December 20, 2010"; and the
- (vi) "Second Amended Notice of Omnibus Avoidance Action Hearing Dates",

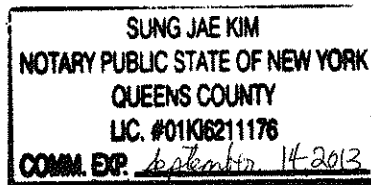
to be served upon the parties listed on Exhibit 1, attached hereto, via First Class US Mail.

- 4. Said documents were securely enclosed in postage prepaid envelopes and delivered to an office of the United States Postal Service for delivery by First Class Mail.
- 5. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed this 7th day of February, 2011 at New York, New York.

By Fayerman
Jan Fayerman

Sworn before me this
7th day of February, 2011

Sung Jae Kim
Notary Public



Date : 2/7/2011

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Adv Pro No: 10-04716 (BRL)

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Exhibit 1
Redacted Version

NTC & CO.

THOMAS J. SCHELL
BRYAN CAVE LLP
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104

Counsel - 004466 012157

PAUL KUNIN

PAUL KUNIN
OAK BROOK IL 60523

004467 009891

PAUL KUNIN
ST. LOUIS PARK MN 55415

004467 009892

PAUL KUNIN
MINNETONKA MN 55305

004467 009893

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
Southern District of New York

In re: Administrative Case Re: 08-1789 (Securities Invest

Bankruptcy Case No.:
08-99000-smb

Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment
Securities LLC, and Bernard L. Madoff

Plaintiff(s),

–against–

Adversary Proceeding No.
10-04716-smb

Paul Kunin

Defendant(s)

ENTRY OF DEFAULT

It appears from the record that the following defendant failed to plead or otherwise defend in this case as required by law.

Name:	Paul Kunin
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Therefore, default is entered against the defendant as authorized by Bankruptcy Rule 7055.

Dated: 2/27/15

Vito Genna

Clerk of the Court

By: /s/ Dawn McCaffrey

Deputy Clerk

EXHIBIT 3

Baker & Hostetler LLP

45 Rockefeller Plaza
 New York, NY 10111
 Telephone: (212) 589-4200
 Facsimile: (212) 589-4201

*Attorneys for Irving H. Picard, Trustee
 for the Substantively Consolidated SIPA Liquidation
 of Bernard L. Madoff Investment Securities LLC
 and Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
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 CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
 SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)
 SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
 Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

PAUL KUNIN,

Defendant.

Adv. Pro. No. 10-04716 (SMB)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

I, **Tanya Kinne**, being duly sworn, depose and say: I am more than eighteen years old and not a party to this action. My business address is Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, NY 10111.

On February 27, 2015, I served the ***Entry of Default*** by emailing the interested parties true and correct copies via electronic transmission to the email addresses designated for delivery and/or by placing true and correct copies thereof in sealed packages designated for regular U.S. Mail to those parties as set forth on the attached Schedule A.

TO: *See Attached Schedule A*

/s/Tanya Kinne
TANYA KINNE

Sworn to before me this
27th day of February, 2015

/s/Sonya M. Graham
Notary Public

Sonya M. Graham
Notary Public, State of New York
No. 01GR6133214
Qualified in Westchester County
Commission Expires: Sept.12, 2017

SCHEDULE A

Paul Kunin
Oak Brook, IL 60523
Pro Se

Paul Kunin
MINNETONKA, MN 55305
Pro Se